

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Davidson, Sochor, Ragsdale & Cohen, LLC

37 Tamarack Circle

Skillman, NJ 08558

Attorneys for Defendants Kevin Fries and Rhonda Lea Kirk-Fries
(609) 924-7179; Fax (609) 683-9501

CHARLES NOVINS, ESQ., P.C. and
CHARLES NOVINS, personally,

Plaintiffs,

v.

KEVIN A. CANNON, KEVIN MICHAEL
FRIES, JIM KELSO, RHONDA LEA KIRK
FRIES, VINCENT LAMB, CARL R.
OSTERWALD, ET AL.,

Defendants

Civil Action: 3:09-cv-5354

**AMENDED NOTICE OF MOTION TO
DISMISS COMPLAINT FOR FAILURE
TO STATE A CLAIM UNDER
F.R.C.P. 12(b)(6) and FOR
JUDGMENT ON THE PLEADINGS
UNDER F.R.C.P. 12(c)**

RETURNABLE FEBRUARY 16, 2010

ORAL ARGUMENT REQUESTED

TO:

Charles Novins, Esq.
54 East Water Street
Toms River, NJ 08754

Joseph A. Manzo, Esq.
37 Rose Lane
Rockaway, NJ 07866

Dennis J. Duncan, Esq.
599 Bloomfield Avenue
Bloomfield, New Jersey 07003

TAKE NOTICE that the undersigned counsel for defendants
Kevin Michael Fries and Rhonda Lea Kirk Fries shall move before
the Honorable Anne E. Thompson on Tuesday, February 16, 2010, at
the United States Federal Court House in Trenton, New Jersey,

for an order dismissing the complaint for failure to state a claim for which relief may be granted under F.R.C.P. 12(b)(6).

In the alternative, said defendants move for judgment on the pleadings to dismiss the complaint under F.R.C.P. 12(c).

Counsel shall rely upon the brief accompanying this Notice.

A form of proposed order is annexed hereto.

The undersigned hereby requests oral argument.

Davidson, Sochor, Ragsdale & Cohen, LLC
Attorneys for Defendants Kevin Fries and Rhonda Lea Kirk Fries

By: _____
Richard A. Ragsdale

January 11, 2010

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ORDER DISMISSING COMPLAINT FOR
FAILURE TO STATE A CLAIM UNDER
F.R.C.P. 12(b)(6) and
F.R.C.P. 12(c)

This matter having been opened to the court by Davidson, Sochor, Ragsdale & Cohen LLC, attorneys for defendants Kevin Michael Fries and Rhonda Lea Kirk Fries, on motion to dismiss the complaint for failure to state a claim under F.R.C.P. 12(b)(6), and F.R.C.P. 12(c), and the court having considered the papers in support of and in opposition to the motion, and the arguments of counsel, and having placed its findings of law on the record on _____, 2010, or having issued a written opinion with respect thereto dated and filed on _____ 2010, and for good cause shown:

It is on this _____ day of _____ 2010, ORDERED that plaintiff's complaint be and hereby is dismissed without prejudice, but with costs in favor of defendants.

ANNE E. THOMPSON, U.S.D.J.